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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/010,086	12/06/2001	Robert A. Stanley	A-70310/RMA	2656
7590	01/06/2005		EXAMINER	
FLEHR HOHBACH TEST ALBRITTON & HERBERT LLP Suite 3400 Four Embarcadero Center San Francisco, CA 94111-4187			CHOULES, JACK M	
			ART UNIT	PAPER NUMBER
			2167	

DATE MAILED: 01/06/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b>	<b>Applicant(s)</b>	
	10/010,086	STANLEY ET AL.	
	<b>Examiner</b>	Art Unit	
	Jack M Choules	2167	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### **Status**

- 1) Responsive to communication(s) filed on 03 June 2004.
- 2a) This action is **FINAL**.                                    2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### **Disposition of Claims**

- 4) Claim(s) 30-65 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) Claim(s) \_\_\_\_\_ is/are allowed.
- 6) Claim(s) 30-65 is/are rejected.
- 7) Claim(s) \_\_\_\_\_ is/are objected to.
- 8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### **Application Papers**

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on 24 July 2002 is/are: a) accepted or b) objected to by the Examiner.  
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### **Priority under 35 U.S.C. § 119**

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) All    b) Some \* c) None of:
  1. Certified copies of the priority documents have been received.
  2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### **Attachment(s)**

- 1) Notice of References Cited (PTO-892)
- 2) Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
 Paper No(s)/Mail Date 9/7/04.
- 4) Interview Summary (PTO-413)  
 Paper No(s)/Mail Date. \_\_\_\_\_.
- 5) Notice of Informal Patent Application (PTO-152)
- 6) Other: \_\_\_\_\_.

## **DETAILED ACTION**

1. Claims 30-65 are presented for examination, claims 1-29 having been canceled by applicant's amendment.

### ***Claim Rejections - 35 USC § 101***

2. **Claims 1-29 rejected under 35 U.S.C. 101 because the claimed invention is directed to non-statutory subject matter.** Claims 30-52 and 60-65 are directed to "An informatics system" that is clearly a "data structure Per Se and/or a computer listing Per Se. Thus being descriptive material Per Se and hence nonstatutory. And claims 53-59 are directed to a corresponding method performing on data structures Per Se and or computer listings Per Se. The separate modules of the claims for example an object handler seems to match "the Intelligent Object Handler (IOH), describing sets of user interactions and object environment definition protocols are assumed to be preformed in software (page 16, line 27 on). The examiner finds no limitation in the claims to hardware or other physical structure and no limitation of the claims that is defined in the specification, as being physical structures as software and data is not considered a physical structure. See the PMEP section 2106 IV B 1 (a). The courts have held in *In re Lowry*, 32 F.3d 1579, 32 USPQ2d 1031 (Fed. Cir. 1994), wherein claims to a data structure stored in memory were held to be statutory subject matter because of the statutory nature of the memory. However, as no memory or other physical structure is claimed in this application Lowry does not control the examiners decision to reject.

***Specification and Claim Objections***

3. Claims 30-65 are objected to because of the following informalities: the language of the claims does not find clear support or antecedent basis in the description. For example from claim 30, the phrases “data structuring objects,” “native data content,” “common user presentation interface and interaction format,” “a master ontology,” and “an ontology of data structuring objects,” could not be found in the specification. As to claim 53 the phrases “data point,” “pointer to a source of the data item,” “common user presentation and interaction layers,” “intermediate data format,” and “native data content,” are not found in the specification. Also as to claim 60 “data point,” “native form,” “common format,” “data attributes and object attributes,” (although the term attributes appears in the specification it is unclear which is referred to data or object and both are not.) “data content subset relationships,” and content relationships” are not found in the specification. Note: the examiner did not check dependent claims for lack of support for language used however, they are rejected for incorporating the errors of the independent. Appropriate correction is required.

4. See § 1.75 d)(1)

The claim or claims must conform to the invention as set forth in the remainder of the specification and the terms and phrases used in the claims must find clear support or antecedent basis in the description so that the meaning of the terms in the claims may be ascertainable by reference to the description. (See § 1.58 (a)).

5. The specification is objected to as failing to provide proper antecedent basis for the claimed subject matter. See 37 CFR 1.75(d)(1) and MPEP § 608.01(o). Correction of the following is required: see claim objection above.

***Claim Rejections - 35 USC § 112***

6. Claims 30-65 are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement. The claim(s) contains subject matter, which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention.
7. As to claim 30, the fact the above listed terms and phrases could not be found in the specification as filed lead s the examiner to believe the following claim elements that include those phrases are not found in the application as originally filed:
  - an object handler for supporting the data structuring objects;
  - a generator for generating a data structuring object to be associated with native data content;
  - at least one description data structure within the data structuring object, wherein a description data structure describes, using a common user presentation interface and interaction format, the native data content associated with the data structuring object;
  - at least one subset vector within the data structuring object, wherein a subset vector describes a subset of the associated native data content and wherein at least one subset factor is user-defined, thereby allowing for structuring data in the context of native data content without requiring restructuring of the data or programming; and
  - a master ontology generator for generating an ontology of data structuring objects.

8. As to claim 53, the fact the above listed terms and phrases could not be found in the specification as filed lead s the examiner to believe the following claim elements that include those phrases are not found in the application as originally filed:

for each data object, providing a graphical user interface to receive object descriptors from a user to define common presentation and interaction layers for the data item; in response to a user search query, accessing the source of the data item using at least the pointer; accessing content subsets of data corresponding to the data item in native data format; translating data into an intermediate data format from the native data format; performing a search for a vector subset of data attributes and object descriptors of the data item using the intermediate data format; and presenting search results for the search query using the common presentation layer.

9. As to claim 60, the fact the above listed terms and phrases could not be found in the specification as filed lead s the examiner to believe the following claim elements that include those phrases are not found in the application as originally filed:

direct content accessing means for accessing data content of data items in their native form; translation means for converting data associated with different data items into a common format; master query search means for searching data objects as vector subsets of data having data attributes and object attributes;

data link description means for defining data content subset relationships and for triggering activity based on information pertaining to detected data content and content relationships.

10. As to claims 31-52, 54-59, and 61-65, currently no attempt has been made to match the elements of the dependent claims with support in the specification however; they are rejected for incorporating the errors of the independent claims. Appropriate correction is required.

***Claim Rejections - 35 USC § 103***

11. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

12. This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

13. Claims 30-65 are rejected under 35 U.S.C. 103(a) as being unpatentable over Glynias et al. [hereinafter Glynias] US patent No. 6,125,383. Note: the applicant provided the Glynias in an IDS filed 12/30/02.

14. As to claims 30, Glynias disclosed the invention substantially as claimed including a data processing system ['DP'] comprising “an object handler” (fig 2, index 72 or 74); “a generator” (col. 10, lines 11-34); and “At least on description data structure” (column 10 lines 47-63) and “at least one subset vector” (column 12 lines 47-67 and column 13 lines 1-16).

15. Glynias does not detail “a master ontology” however as there is no physical embodiment claimed there is no possible functionality, the data and software structures are considered to be non functional data and are considered to be directed to data *Per Se* or software *Per Se* thus the difference is limited to non-functional descriptive material stored on a machine which cannot render an invention non-obvious for an invention that would otherwise have been obvious (see MPEP 2106 IV) the fact the data can be recalled does not make it functional.

16. As to Claim 53, Glynias disclosed the invention substantially as claimed including a data processing system ['DP'] comprising “instantiating a data object” (column 10, lines 9- 47); “a graphical users interface” (column 11, lines 60-67 and column 12 lines 1-12); “accessing the source of the data item” (column 12 lines 47-66); “performing a search for a vector subset ” (column 12 lines 47-67 and column 13 lines 1-16) and “presenting search results” (column 12 lines 47-67 and column 13 lines 1-16).

17. Glynias does not detail “accessing content subsets” however as there is no physical embodiment claimed there is no possible functionality, the data and software structures are considered to be non functional data and are considered to be directed to data *Per Se* or software

Per Se thus the difference is limited to non-functional descriptive material stored on a machine which cannot render an invention non-obvious for an invention that would otherwise have been obvious (see MPEP 2106 IV) the fact the data can be recalled does not make it functional.

18. As to Claim 60, Glynias disclosed the invention substantially as claimed including a data processing system ['DP'] comprising a “data object means” (column 10, lines 9- 47); “direct content accessing” (column 11, lines 60-67 and column 12 lines 1-12); “communication means” (column 12 lines 47-66); “object handler means” (Figure 4, index 112) “master query search means” (column 12 lines 47-67 and column 13 lines 1-16) and “data link description means” (column 12 lines 47-67 and column 13 lines 1-16).

19. Glynias does not detail “data pane means” or “translation means” however as there is no physical embodiment claimed there is no possible functionality, the data and software structures are considered to be non functional data and are considered to be directed to data *Per Se* or software *Per Se* thus the difference is limited to non-functional descriptive material stored on a machine which cannot render an invention non-obvious for an invention that would otherwise have been obvious (see MPEP 2106 IV) the fact the data can be recalled does not make it functional.

20. As to claims 31-52, 54-59, and 61-65 they may include limitations not coved in the prior art however as there is no physical embodiment claimed there is no possible functionality, the data and software structures are considered to be non functional data and are considered to be directed to data *Per Se* or software *Per Se* thus the difference is limited to non-functional descriptive material stored on a machine which cannot render an invention non-obvious for an

invention that would otherwise have been obvious (see MPEP 2106 IV) the fact the data can be recalled does not make it functional.

*Conclusion*

21. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

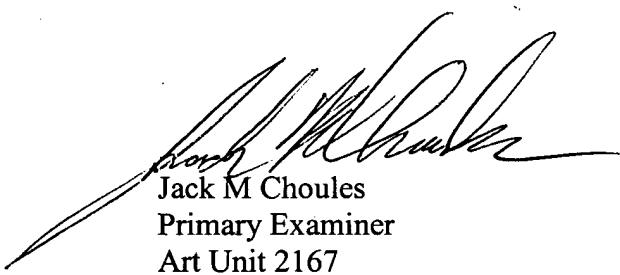
A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

22. This Office action has an attached requirement for information under 37 CFR 1.105. A complete reply to this Office action must include a complete reply to the attached requirement for information. The time period for reply to the attached requirement coincides with the time period for reply to this Office action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jack M Choules whose telephone number is (571) 272-4109. The examiner can normally be reached on M-F (7:30-4:00).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, John E. Breene can be reached on (571) 272-4107. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Jack M Choules  
Primary Examiner  
Art Unit 2167

27 December 2004



## UNITED STATES PATENT AND TRADEMARK OFFICE

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UNDER SECRETARY OF COMMERCE FOR INTELLECTUAL PROPERTY AND  
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### ***Information Required- 37 CFR §1.105***

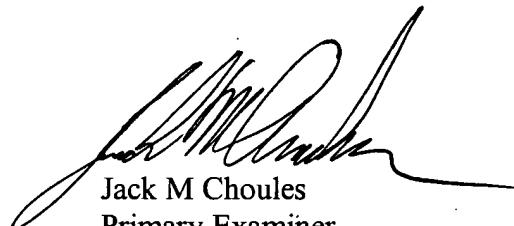
1. Applicant and the assignee of this application are required under 37 CFR 1.105 to provide the following information that the examiner has determined is reasonably necessary to the examination of this application.
  
2. Due to a complex specification and the use of different language in the claims than in the specification as noted above in the objection to the claims applicant is required to provide;
  - a. A mapping of the elements of the claims 30-65 that were added by amendment to the specification, to show the written description and enablement support for each limitation in these added claims.
  - b. The support found in the disclosure for the means function limitations found in claims 60-65. Specifically the corresponding structure, material or acts under 35 USC 112, 6<sup>th</sup> paragraph for each means recited in these claims.
  
3. The applicant is reminded that the reply to this requirement must be made with candor and good faith under 37 CFR 1.56. Where the applicant does not have or cannot readily obtain an item of required information, a statement that the item is unknown or cannot be readily obtained will be accepted as a complete reply to the requirement for that item.



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4. This requirement is an attachment of the enclosed Office action. A complete reply to the enclosed Office action must include a complete reply to this requirement. The time period for reply to this requirement coincides with the time period for reply to the enclosed Office action.



Jack M Choules  
Primary Examiner  
Art Unit 2167

27 December 2004



John E. Breene  
JOHN BREENE  
SUPERVISORY PATENT EXAMINER  
TECHNOLOGY CENTER 2100